IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

OP.No. 12851 of 2001(E)

PETITIONERS:
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1. **WINNY ABRAHAM,**
   ALAKKAPARAMBIL HOUSE,
   36/14441-A, ELAMKULAM ROAD,
   KALOOR, KOCHI-17.

2. **SEBASTIAN PAUL,**
   MOONJAPPILLY HOUSE,
   ST. FRANCIS XAVIER'S CHURCH ROAD,
   KOCHI-18.

BY ADV. SRI.K.JAJU BABU,
SMT.M.U.VIJAYALAKSHMI.

RESPONDENTS:
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1. **THE ASSISTANT PROVIDENT FUND COMMISSIONER,**
   EMPLOYEES' PROVIDENT FUND ORGANISATION,
   SUB REGIONAL OFFICE, 36/685 A,
   BHAVISHYANIDHI BHAVAN, P.B. NO. 12895,
   KALOOR, KOCHI- 682 107.

2. **THE RECOVERY OFFICER,**
   OFFICE OF THE RECOVERY OFFICER,
   EMPLOYEES' PROVIDENT FUND ORGANISATION,
   SUB REGIONAL OFFICE, 36/685 A,
   BHAVISHYANIDHI BHAVAN, P.B. NO. 12895,
   KALOOR, KOCHI - 682 107.

BY ADV. SRI.T.P.M. IBRAHIM KHAN,
SRI.K.L.JOSEPH.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/06/2007, ALONG WITH O.P. NO. 13362/2001, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 20351/2001 IN O.P. NO. 12851/2001

DISMISSED

29/06/2007. **SD/- KURIAN JOSEPH, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE MEMORANDUM OF ASSOCIATION AND REGULATIONS OF THE KERALA CULTURAL SOCIETY LTD., ERNAKULAM.

EXT.P.2: COPY OF THE MEMORANDUM OF SETTLEMENT SIGNED BEFORE THE REGIONAL JOINT LABOUR COMMISSIONER, EKM., BY THE MANAGEMENT AND EMPLOYEES' UNION, ON 19/02/2000.

EXT.P.3: COPY OF THE NOTICE DTD. 15/02/2001 ISSUED TO THE PETITIONER NO. 2 BY THE REGIONAL COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION.

EXT.P.4: COPY OF THE NOTICE DTD. 15/02/2001 ISSUED TO THE P2. BY THE REGIONAL COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION.

EXT.P.5: COPY OF THE REPLY SENT BY THE P.1. BEFORE THE ASST. PROVIDENT FUND COMMISSIONER ON 30/03/2001.

EXT.P.6: COPY OF THE REPLY SENT BY THE P.2. BEFORE THE AST. PROVIDENT FUND COMMISSIONER ON 30/03/2001.

EXT.P.7: COPY OF THE ORDER NO. KR/KC/1682/RECOVERY/2000-01/5647 ON 02/03/2001 ISSUED BY THE R.2.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

KURIAN JOSEPH , J

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O.P. Nos. 12851 & 13362 OF 2001

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Dated this the 29th day of June, 2007.

JUDGMENT

The petitioners are aggrieved by the proceedings initiated under the provisions of the E.P.F. and M.P Act, 1952 and under the E.S.I Act respectively. One of the main contentions taken by the petitioners is that they were not given any opportunity to substantiate their case before the original authority. It is submitted that they were not involved in the management and they were only mediators. It is hence prayed that a chance may be given to afford an opportunity to present their case before the original authority. The learned counsel for the respondent, however, submits that the petitioners can seek the alternate remedy under the respective statutes. However, taking note of the factual background of the case and the submissions that they did not get sufficient opportunity before the original authority, it is only appropriate that a chance is given to the petitioners to substantiate their case. Accordingly, the impugned orders are quashed. There will be a direction to the 1st respondent in both cases to issue fresh notice to the petitioners, afford sufficient opportunity and pass appropriate orders.

KURIAN JOSEPH, JUDGE.

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